

ORDINANCE NO. 2008-08-144

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS ENACTING PROVISIONS FOR OWNERS AND OPERATORS OF TOWING COMPANIES DOING BUSINESS IN THE CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR TOWING PERMITS; PROVIDING FOR TOWING RULES AND REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, tow company operators are engaged in the towing immobilization of vehicles within the City either as the result of a consent or non-consent tow, and

WHEREAS, the City Council deems it in the best interest of the City to impose rules and regulations for towing within the City of Miami Gardens,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS, FLORIDA, as follows:

SECTION 1. ADOPTION OF REPRESENTATIONS: The foregoing Whereas Clauses are hereby ratified and confirmed as being true, and the same are hereby made a specific part of this Ordinance.

SECTION 2. CREATION OF ORDINANCE: The City Council of the City of Miami Gardens hereby creates a Towing Ordinance as follows:

**SECTION 1. Definitions**

For the purposes of this ordinance, the following definitions shall apply:

1. *City Council*: shall mean the City Council of the City of Miami Gardens.
2. *Code Enforcement, Community Service Aid, Parking Enforcement Directed Tow*: shall mean the removal and storage of wrecked, disabled, abandoned, or improperly parked vehicles at the direction of a City of Miami Gardens Code Enforcement officer, Community Service Aid, or

Parking Enforcement Specialist or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, or otherwise does not consent to the removal of the vehicle, excepting, however, all incidents of Private Property Impounds as herein defined

3. *Consent Towor*: shall mean a person who tows a motor vehicle with the consent of the vehicle owner.
4. *City Manager*: shall mean The City Manager of the City of Miami Gardens or his or her designee.
5. *CSD*: shall mean the Miami-Dade County Consumer Services Department.
6. *Decal*: shall mean an identifying sticker issued by the Director and appropriate for display in the lower left corner of the front window of a towing vehicle or equipment or car carrier used by a person licensed under this ordinance.
7. *Director*: shall mean the Code Enforcement Director.
8. *Express instruction*: shall mean a clear, definite and explicit request:
  - (a) Made in writing by a police officer to immobilize, recover, tow, remove or store a specific and individual vehicle which is disabled or abandoned or parked without authorization, or whose operator is unable or unwilling to remove the vehicle;
  - (b) Made in writing by a City Code Enforcement Officer, Community Service Aid, or Parking Enforcement Specialist to immobilize, recover, tow, remove or store a specific and individual vehicle which is disabled or abandoned or parked without authorization, or whose operator is unable or unwilling to remove the vehicle;
  - (c) Made in writing by a property owner or duly authorized agent of the property owner to immobilize, recover, tow, remove or store a specific and individual vehicle parked without permission of the property owner; however, such property owner or agent shall not be the person requested to immobilize, recover, tow, remove or store the vehicle or an employee or agent thereof; or
  - (d) Made by telephone, in person or in writing by a vehicle owner or the authorized driver to recover, tow, remove or store a specific and individual vehicle that is in the lawful control of the vehicle owner or authorized driver requesting the towing service. The foregoing notwithstanding, where the property owner is a government entity,

the property owner or an employee or agent thereof, may be the same person requested to recover, tow, remove or store the vehicle.

Every request made in writing or in person must indicate the date and time of the instruction and must be signed by the Police Officer, Code Enforcement Officer, Community Service Aid, or Parking Enforcement Specialist, the property owner or agent, or the vehicle owner or authorized driver in the presence of the person providing the requested service. Every request made by telephone must also be documented with the date and time of the call.

9. *Immobilization, immobilize or immobilizing (also known as boot or booting)*: shall mean the act of placing, on a parked vehicle, a mechanical device that is designed to be attached to the wheel or tire so as to prohibit its usual manner of movement.
10. *Industry*: shall mean the business of recovering, towing or removing vehicles and providing such vehicle storage services as may be associated therewith.
11. *License*: shall mean the certificate or document that allows a person to engage in the activity of recovering, towing, removing and storing of vehicles for compensation in Miami-Dade County. As used in this ordinance, "license" shall not mean a municipal occupational license or a County occupational license.
12. *Non-consent Tow*: shall mean the removal and storage of wrecked, disabled, abandoned, or improperly parked vehicles at the direction of a Police Officer, a City of Miami Gardens Code Enforcement Officer, a City of Miami Gardens Community Service Aid, City of Miami Gardens Parking Enforcement Specialist, a private property owner, or the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, or otherwise does not consent to the removal of the vehicle.
13. *Non-consent Tower*: shall mean persons who perform "Police Directed Tows", "Code Enforcement, Community Service Aid, or Parking Enforcement Specialist Directed Tows", or "Private Property Impounds" as defined herein.
14. *Operate*: shall mean to provide for compensation the services of recovering, towing or removing vehicles and any vehicle storage services associated therewith.

15. *Operator*: shall mean any person who provides for compensation the services of recovering, towing, or removing vehicles and any vehicle storage services associated therewith.
16. *Permit*: shall mean the official towing permit as obtained from and as processed by the City of Miami Gardens.
17. *Person*: shall mean any natural person, firm, partnership, association, corporation or other entity of any kind whatsoever.
18. *Police Directed Tow*: shall mean the removal and storage of wrecked or disabled vehicles at the direction of police/law enforcement as follows:
  - (a) From an accident scene;
  - (b) In the event the owner or operator is incapacitated, unavailable, or otherwise does not consent to the removal of the vehicle, excepting, however, all incidents of Private Property Impounds as herein defined;
  - (c) Any motor vehicle unlawfully parked in violation of any provision of the ordinances of the city or state;
  - (d) Any vehicles that are not permitted to be driven upon sidewalks, swales, roads, streets, trails, parks or other public property.
  - (e) Any motor vehicle that is stolen, missing a tag, subject to seizure and forfeiture under the laws of the State, or is being held for use as evidence in a criminal trial.
  - (f) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety.
19. *Police Officer*: shall mean a City of Miami Gardens Police Officer.
20. *Private Property Impound*: shall mean towing or removal of a vehicle, without the consent of the vehicle's owner or operator, as such is authorized by Section 715.07, Florida Statutes, as may be amended, when that vehicle is parked on private real property.
21. *Property owner*: shall mean that person who exercises dominion and control over real property, including, but not limited to, the legal titleholder, lessee, designated representative of a condominium association or any person authorized to exercise dominion and control over real property;

however, "property owner" shall not mean or include a person providing towing services within the purview of this ordinance. The foregoing notwithstanding, all government entities providing their own towing services may be property owners for purposes of this ordinance.

22. *Recover*: shall mean to take possession of a vehicle and its contents and to exercise control, supervision and responsibility over it.
23. *Regulation*: shall mean a rule set forth in this ordinance, the violation of which is sufficient grounds for fines; suspension or revocation of a towing license and registration; civil damages; court costs and attorney's fees; and specified criminal penalties.
24. *Remove*: shall mean to change the location of a vehicle by towing it.
25. *Revoke*: shall mean to annul and make void the license of a person engaged in the business of providing towing services.
26. *Store*: shall mean to place and leave a towed vehicle at a location where the person providing the towing service exercises control, supervision and responsibility over the vehicle. The storage facility must be securely fenced or locked for the protection of vehicles and property.
27. *Trespass towing*: shall mean the towing or removal of a vehicle that is parked on private real property.
28. *Tow*: shall mean to haul, draw or pull along a vehicle by means of another vehicle equipped with booms, car carriers, winches or similar equipment.
29. *Trade*: name shall mean any name under which a person, corporation, partnership, association, firm or any other entity operates its business.
30. *Vehicle*: shall mean an automobile, vessel, truck, bus, trailer, semi trailer, truck tractor, recreational unit primarily designed as temporary living quarters, all terrain vehicle, which either has its own motive power or is mounted on or drawn by another vehicle, or any other mobile item using wheels and being operated on the roads of Miami Gardens, which is used to transport persons or property and is propelled by power other than muscular power; provided, however, that the term does not include bicycles, traction engines, road rollers or vehicles which run only upon a track.
31. *Wrecker class*: shall mean the type of towing vehicle, equipment or apparatus used to recover, tow or remove vehicles. The wrecker classes shall be distinguished as follows:

## **PART I TOWING PERMITS**

### **SECTION 2. Towing Permit Required; Application.**

- (A) It shall be unlawful for any person to recover, tow or remove a vehicle or provide storage in connection therewith or to cause or permit any other person for compensation to recover, tow or remove a vehicle or provide storage in connection therewith, or to advertise or offer to recover, tow or remove a vehicle or provide storage in connection therewith within the City limits of Miami Gardens, without first obtaining and maintaining a current Towing Permit pursuant to the provisions of this ordinance; provided, however, that a property owner without a Towing Permit may cause or allow the removal of a vehicle from his or her property in accordance with the provisions of this ordinance. The provisions of this ordinance do not apply to persons who use a towing vehicle to transport their vehicles purely for personal, family, household or recreational use.
1. Nothing in this ordinance shall be construed to prohibit the discharge or storage of a vehicle lawfully recovered, towed or removed in another County and lawfully transported into Miami-Dade County and/or the city of Miami Gardens; nor shall anything in this ordinance be construed to prohibit a vehicle owner or his authorized agent from requesting the services of a towing business not regularly doing towing business in Miami-Dade County and/or the City of Miami Gardens, to remove the owner's vehicle to a location outside Miami-Dade County.
  2. Nothing in this ordinance shall be construed to prevent a natural person from working in an employment relationship for another person holding a valid license under this ordinance; however, any person who is an independent contractor and not an employee of a licensed person is also subject to all the requirements and provisions of this ordinance.
- (B) Every application for a towing permit shall be in writing, signed and verified by the applicant, and filed with the Code Enforcement Department together the appropriate processing fee, as established by resolution by the City Council of the City of Miami Gardens. The statements contained in the application shall become a part of the towing permit and may be modified only in accordance with the provisions of this ordinance.

- (C) Every application for a towing permit shall be on a form prescribed by the City Manager or his/her designee and shall contain all the information required by that form, including but not limited to:
1. Sufficient information to identify the applicant, including but not limited to, full legal name, date of birth or of formation of legal entity, telephone numbers, and all business and residence addresses. If the applicant is a corporation, the foregoing information shall also be provided for each corporate officer, director, resident agent and shareholder. If the applicant is a partnership, the foregoing information shall also be provided for each general and limited partner. Post office box addresses shall not be accepted;
  2. A copy of the valid towing license issued by the Consumer Services Department of Miami-Dade County;
  3. The make, model, and manufacturer's serial number of the vehicles utilized in such towing activities;
  4. The date the vehicle was put into service;
  5. The driver's license number of the owner and of all towing service vehicles;
  6. The name of the insurance company or companies with which the owner and operators have liability insurance coverage for the operation of the vehicle as required by law;
  7. Any trade name under which the applicant operates, intends to operate, or has previously operated, and a description of proposed, existing and previous towing vehicles' colors and markings;
  8. A description of the applicant's management plan, which shall include but not be limited to the following: location and description of all places of business, a description of all existing towing vehicles and equipment, a description of the plan and facilities for maintaining towing vehicles and equipment, a system for handling complaints and accidents, insurance coverage, and a description of any communication system;
  9. A description of non-consent tower services proposed to be provided, including but not limited to days and hours of operation and types of towing and storage services to be provided;
  10. Proof of insurance as required by this Ordinance;

11. The signature of each individual applicant, owner, partner, officer, or authorized agent(s);
  12. An agreement on the part of the applicant to abide by the provisions of this ordinance, the applicable ordinances/codes of Miami-Dade County, and the laws of the State of Florida;
  13. It shall be a violation of this section to fail to report, within 15 calendar days, to the City of Miami Gardens Code Enforcement Department any material change pertaining to the information supplied by the applicant or licensee for his or her license, including, but not limited to, changing the location of any of the applicant's place(s) of business;
  14. Each non-consent tower who applies for a towing permit shall provide with his or her application for a permit a listing of all of his or her existing or proposed rates and charges in a format approved by the City Manager or his/her designee;
  15. The names and addresses of corporate officials that can accept service of process for the towing company and such other information as may be required; and
  16. An agreement to indemnify and/hold harmless the City for any actions taken by the applicant.
  17. Such additional information about the non-consent tower applicant as the Code Enforcement Director may deem appropriate.
- (D) It shall be unlawful for any tow truck company receiving compensation to recover, tow, or remove a vehicle or to provide vehicle storage services in connection therewith, until that company has filed with the City, for each tow truck and tow truck company, an insurance policy or policies or certificates of insurance which shall indemnify/insure such company for its liability, at a minimum, as follows:
- (1) Auto liability for each tow truck:  
Five hundred thousand dollars (\$500,000.00) combined single limit.
  - (2) General/garage liability:
    - (a) Five hundred thousand dollars (\$500,000.00) combined single limit.



- (b) Garage keeper's liability, fifty thousand dollars (\$50,000.00) for any one (1) vehicle and one hundred thousand dollars (\$100,000.00) per occurrence.
  - (c) Fifty thousand dollars (\$50,000.00) on-hook cargo liability coverage for each vehicle.
- (3) Worker's compensation as required by state law.
- (4) All insurance policies required shall be issued by insurance companies authorized and qualified to do business in the state. Such insurance companies must carry a "B+" rating or higher as determined by the A.M. Best Guide. No policy shall be accepted which is less than a six-month duration. Each policy shall be endorsed to provide for thirty (30) days notice by U.S. mail to the City of any material change, cancellation or expiration of the policy.
- (5) A properly completed certificate of insurance evidencing all insurance coverages shall be made available to the division upon application for an operating permit. The City must be named as an additional insured on said policies.
- (6) Evidence of the renewal of the policy shall be filed with the division prior to such policy's expiration date. Failure to file such evidence of insurance, or failure to have same in full force and effect, may result in denial of a permit, revocation or suspension of the permit, a denial of renewal of such permit, issuance of a civil citation, a misdemeanor conviction or other such remedies available to the division herein.
- (7) Failure to provide current certificates of insurance or policies or failure to maintain the required coverage for each tow truck/tow truck company shall result in suspension of the towing operating permit, which shall remain in effect until proof of compliance with this section is submitted to the director and approved.
- (8) Insurance requirements do not apply to governmental agencies.

### **SECTION 3. Director's Duties, Functions and Powers.**

- (A) The City of Miami Gardens is empowered to issue towing permits to applicants that have met the standards and requirements for a towing permit, and to promulgate rules, regulations and procedures for the application, issuance and revocation of such permits.

- (B) The City shall review and investigate each application for a towing license and shall reject any application that is not properly filed or is incomplete or untrue in whole or in part, or which fails in any way to meet the requirements of this section. An incomplete application shall be considered to be abandoned if an applicant fails to complete his or her application within sixty days from the date that the application was filed with the Director. An application submitted subsequent to the abandonment of a former application shall be treated as a new application.
- (C) If the Director, after due investigation, has reason to believe that an owner or operator has been or is violating any of the provisions of this Ordinance, then the Director may cause to be served by personal service, certified mail or posting in a conspicuous place at the owner or operator's place of business, a demand to cease and desist, stating the charges and shall incorporate and set out the following:
  - (1) The name of the complainant;
  - (2) The alleged charge and approximate date of the commission of the act;
  - (3) The section of this article alleged to be involved.
- (D) Any owner or operator that has been issued a cease and desist order by the Director may request an administrative hearing through the Code Enforcement Department within fifteen (15) calendar days of the date of the Cease and Desist Order. Failure to request a hearing within the fifteen-calendar-day- period will constitute the waiver by the owner or operator of the right to a hearing.

#### **SECTION 4. Issuance; Duration; Renewal; and Form of Permit**

- (A) No towing permit shall be issued to an applicant or renewed unless the applicant has completed the following:
  - 1. Filed with the Director a true, correct and complete application on the form as herein prescribed, including all proofs of required insurance;
  - 2. Paid the initial, renewal or late application fee, as applicable;
  - 3. Has obtained and maintained a valid towing license from the Consumer Services Department of Miami-Dade County.

4. Confirmed that neither the applicant, nor any officer, director or partner of the applicant, nor any stockholder owning, holding, controlling or having a beneficial interest in five (5) percent or more of the issued and outstanding stock of a corporate applicant or of a corporate general partner of a partnership applicant, has a currently suspended license from Miami-Dade County, has had its Miami-Dade County towing license revoked by action of the Miami-Dade County Consumer Services Department within two (2) years of the date of application, has had its towing permit suspended or revoked by the City of Miami Gardens Code Enforcement Department within one year of the date of the application;
  5. Not committed fraud or willfully or knowingly misrepresented or made a false statement in the application.
  6. Has no unpaid civil penalties; unpaid administrative costs of hearing; unpaid liens, any or all of which are owed to the City of Miami Gardens.
- (B) Each towing permit shall be on a form prescribed by the City Manager or his/her designee and shall be signed by the Code Enforcement Director. Each towing permit shall contain, at a minimum:
1. The permit number,
  2. The name and address of the applicant,
  3. The dates the permit remains in effect unless suspended or revoked,
  4. A statement of such additional terms and conditions, restrictions and limitations as were authorized in the application and approval process. Violation of such a condition, limitation, or restriction of a license shall be a violation of this ordinance.
- (C) Each towing permit shall be issued in the name of the person conducting the licensed towing activity and shall be valid only during the annual permit period.
1. The permit period shall commence on January 1<sup>st</sup> of each year and will expire on December 31<sup>st</sup> of each year.
  2. All annual towing permits, which are not renewed, shall automatically expire on December 31<sup>st</sup> of each year.

3. The Director may deny each renewal application that is not timely, is not properly filed, is incomplete, is untrue in whole or in part, is unaccompanied by the required fee, or results in a determination by the Director that the applicant has failed to satisfy the requirements of this code.
4. A permit issued or renewed pursuant to the provisions of this ordinance shall not be transferable, nor shall the ownership structure of the licensee be so modified as to constitute a change in the control or ownership of the license, without the prior written approval of the Director.
5. Registration fees are non-refundable and shall not be prorated.
6. Each updated renewal application shall be submitted at least sixty (60) days prior to expiration of the annual license and shall be accompanied by the appropriate processing fee
7. There shall be no numerical limit on towing permits issued pursuant to the provisions of this ordinance.

**SECTION 5. Denial, Revocation, Suspension of Privilege to Tow; Appeals.**

- (A) The City Manager or his designee may suspend or revoke the privilege of any person, firm, or corporation to engage in non-consent towing within the City limits of the City of Miami Gardens on any of the following grounds:
1. If the applicant, owner, or operator fails to obtain a towing permit as required by this ordinance; or
  2. If the applicant fails to obtain and maintain a valid towing license as issued by the Consumer Services Department of Miami-Dade County, or
  3. Misrepresented or concealed a fact on the application, renewal application or replacement application for a license; or
  4. If the applicant, owner, or operator fails to pay any outstanding fees, fines, or liens due and owed to the City after notification thereof; or
  5. If the towing service owner or operator violates any of the provisions of this ordinance.

6. If the applicant or permit holder aided or abetted a person who has not obtained a license to evade or avoid the provisions of this ordinance, or
  7. If the applicant or permit holder engages in any conduct as part of the performance of a contract for service which constitutes fraud, or
  8. If the applicant or permit holder violated any condition, limitation, or restriction of a license imposed by the Director, or
  9. Was enjoined by a court of competent jurisdiction from engaging in the trade or business of towing or was enjoined by a court of competent jurisdiction with respect to any of the requirements of this ordinance, or
  10. Failed to comply with the terms of a cease and desist order, notice to correct a violation, written assurance of compliance, or any other lawful order of the Director, or
- (B) Three violations of the provisions of this chapter by any owner and/or operator of a towing service or towing service vehicle shall result in the automatic suspension of the owner's or operator's privilege to engage in the business of towing.
- (C) If the privilege to engage in nonconsent tows has been suspended or revoked:
1. The owner or operator shall be informed in person or by certified or registered mail within seven days prior to the effective date of suspension or revocation.
  2. The owner or operator may make a written request for an administrative hearing within 15 calendar days of the date of the suspension or revocation. Failure to request a hearing within the fifteen-calendar-day period shall constitute a waiver by the owner or operator of any right to a hearing.
  3. A hearing will be conducted before a Special Master in accordance with the City's Code Enforcement ordinance.
  4. Upon the review of the evidence presented at the hearing, if the Special Master upholds the suspension or revocation, the owner's or operator's privileges to engage in the business of towing within the City of Miami Gardens shall be suspended or revoked for one year.

5. Any towing service owner or operator whose privilege to engage in vehicle towing has been revoked shall not be eligible to again register with the City for a period of up to one year from the date of revocation

## **PART II TOWING RULES AND REGULATIONS**

### **SECTION 6. Non-consent Towing**

In addition to the other requirements of this ordinance, no non-consent tower shall recover, tow or remove a vehicle or provide storage in connection therewith without the prior express instruction of the vehicle owner or authorized driver, except in accordance with the following:

- (A) Only persons duly licensed under State Statute 715 and under the applicable sections of Chapter 30 of the Miami Dade County Code and that have duly obtained a towing permit from the City of Miami Gardens shall recover, tow or remove a vehicle or provide storage in connection therewith without the prior express instruction of the vehicle owner or authorized driver, within the City limits.
- (B) Persons duly authorized, licensed, and permitted as provided for herein may recover, tow or remove a vehicle without the prior express instruction of the vehicle owner or authorized driver upon the express instruction of a Police Officer, a City Code Enforcement Officer, a City Community Service Aid, and/or a City Parking Enforcement Specialist and in accordance with the terms of any contracts or agreements between the licensee and the governmental entity in whose jurisdiction the police officer serves. Such contracts or agreements may provide terms and requirements in excess of the requirements provided by this ordinance.
- (C) Persons duly authorized, licensed, and permitted as provided for herein may recover, tow or remove a vehicle without the prior express instruction of the vehicle owner or authorized driver, upon the express instruction of a property owner, or his authorized agent, on whose property the vehicle is disabled, abandoned or parked without authorization or whose operator is unwilling or unable to remove the vehicle, provided that the requirements as enumerated herein as well as Florida State Statute 715 and under the applicable sections of Ordinance III of Chapter 30 of the Miami Dade County Code are satisfied.
- (D) Persons who provide services pursuant to this code shall not pay or rebate money, or solicit or offer the rebate of money, or other valuable consideration, to obtain the privilege of rendering such services.

- (E) Persons who provide services as provided herein shall not do so when there is a living natural person occupying the vehicle.
- (F) Persons who provide services as provided herein shall transport the vehicle directly to the storage site of the person providing the service, or to such other location as a police officer authorizing the tow may expressly direct, and shall not keep the vehicle in any temporary holding area.
- (G) Persons who provide services pursuant to this section shall maintain a place of business. The place of business shall have a sign that clearly and conspicuously identifies the business to the public; and office space that has at least one (1) person on duty from 8:00 a.m. until 6:00 p.m., Monday through Friday, to answer telephone calls and to be open to serve the public. However, the office may be closed to observe all holidays observed by Miami-Dade County and local government. The place of business shall maintain telephone communication system to answer telephone calls from the public twenty-four (24) hours a day.
- (H) Persons who provide services pursuant to this section shall file and keep on record with the Code Enforcement Department a complete copy of all current rates charged for the recovery, towing or removal of vehicles and storage provided in connection therewith. Such persons shall also display prominently at each vehicle storage site a schedule of all charges and rates for removal of vehicles at the request of property owners. That rate schedule shall be posted prominently in the area designated for the vehicle owner or his agent to transact business. Such area shall provide shelter, safety and lighting adequate for the vehicle owner or his or her authorized representative to read the posted rate schedule. Further, notice shall be posted advising the vehicle owner or his or her authorized representative of the right to request and review a complete schedule of charges and rates for towing services provided at police request for the jurisdiction in which the police order to tow was made.
- (I) Persons who provide services pursuant to this section shall advise any vehicle owner or authorized representative who calls by telephone prior to arriving at the storage site of the following:
  - 1. Each and every document or other thing which must be produced to retrieve the vehicle;
  - 2. The exact charges as of the times of the telephone call, and the rate at which charges accumulate after the call;
  - 3. The acceptable methods of payment; and

4. The hours and days the storage site is open for regular business.
- (J) Persons who provide services pursuant to this section shall permit every vehicle owner or his or her authorized representative to inspect the towed vehicle immediately upon his or her arrival at the storage site and before payment of any charges. The vehicle owner or his or her authorized representative shall be permitted to remove from the vehicle any and all personal possessions inside but not affixed to the vehicle, including but not limited to radios and telephones, and the operator of the storage site shall assist any vehicle owner or authorized representative in doing so. No release or waiver of any kind, which would release the authorized representative at the time of retrieval, may be required as a condition of release of the vehicle.
- (K) Persons who provide services pursuant to this section shall accept payment for charges from the vehicle owner or authorized representative in any of at least two (2) of the following listed categories:
1. Cash, money order or valid traveler's check;
  2. Valid bank creditor debit card; or
  3. Valid personal check showing on its face the name and address of the vehicle owner or authorized representative.

A vehicle owner or authorized representative shall not be required to furnish more than one (1) form of picture identification when payment is made by valid bank or debit credit card or personal check, and said presentation shall constitute sufficient identity verification.

- (L) Persons who provide services pursuant to this section shall display on the same sign as the rate schedule required by subsection (h) of this section the following statement:

*To The Vehicle Owner*

If you believe that you have been overcharged for the services rendered, you do not have to pay your bill to get your car. Instead, you have the right to post a bond in the Circuit Court, payable to (name of person providing service), in the amount of the final bill for services rendered, and file a complaint within five (5) days of the time you have knowledge of the location of the vehicle, and the Court will decide later who is right. If you show us a valid Clerk's certificate showing that you have posted a bond, we must release your vehicle to you immediately. This remedy is in addition to other legal remedies you may have. F.S. §713.76 and §713.78.



If you have a complaint about the way services were provided, you may call the City of Miami Gardens.

- (M) Persons who provide services pursuant to this section shall not use physical force or violence or threats of physical force or violence in dealing with the individuals responsible for administering this ordinance or individuals who have had or are about to have their vehicles recovered, towed or removed or stored in connection therewith.
- (N) Nothing in this section shall prevent the City from providing additional or more restrictive requirements in City contracts or arrangements under which police officers, Code Enforcement Officers, Community Service Aides, and Parking Enforcement Officers direct and authorize the recovery, towing or removal of vehicles or storage provided in connection therewith.

**SECTION 7. Requirements for Providing Non-consent /Trespass Tow Services at the Request of Property Owners**

Non-consent towers duly licensed and permitted under this ordinance may recover, tow or remove a vehicle or provide storage in connection therewith upon the instruction of a property owner, or his authorized agent, on whose property the vehicle is abandoned or parked without authorization, provided that the following requirements are satisfied:

- (A) Notice shall be prominently posted on the property from which the vehicle is proposed to be removed and shall fulfill the following requirements:
  - 1. Notice, in the form of a sign structure, shall be prominently placed at each driveway access or curb cut allowing vehicle access to the property, within five (5) feet from the public right-of-way line. If there are no curbs or access barriers, signs shall be posted not less than one (1) sign each twenty-five (25) feet of lot frontage. The sign structure shall be permanently installed with the bottom of the sign not less than four (4) feet above ground level and the top of the sign not more than ten (10) feet above ground level, and shall be continuously maintained on the property for not fewer than twenty-four (24) hours before the towing or removal of vehicles.
  - 2. The notice shall clearly display:
    - a. In not less than two (2) inches high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense; and

- b. In not less than four (4) inches high, light-reflective letters on a contrasting background the words "tow-away zone"; and
  - c. In not less than two (2) inches high, light-reflective letters on a contrasting background, the days of the week and hours of the day during which vehicles will be towed away at the owner's expense where the property owner selectively causes the towing of vehicles, depending on the day of the week and hour of the day the vehicle is parked; and
  - d. In not less than two (2) inches high, light-reflective letters on a contrasting background, the name and telephone number of the person performing the towing service, if there exists a written contract between the property owner and that person for the towing of vehicles; and
  - e. In not less than one (1) inch high, light-reflective letters on a contrasting background, the address and phone number of the storage site.
- 3. The posting of notice requirements of this section shall not be required where:
  - a. The property on which a vehicle is parked is property appurtenant to and obviously a part of a single-family type residence; or
  - b. Notice is personally given to the owner or operator of the vehicle that the property on which the vehicle is or will be parked is reserved or otherwise not available for unauthorized vehicles and is subject to being removed at the owner's expense; or
  - c. The property on which a vehicle is parked is owned by a governmental entity and the towing is performed by a towing vehicle owned by or under the direction of the governmental entity in compliance with laws authorizing removal of the vehicle.
- (B) The property owner or his authorized agent shall provide express instruction to recover, tow or remove the vehicle and shall date and sign such instruction in the presence of the natural person recovering, towing or removing the vehicle. Neither the property owner nor his authorized agent shall be an officer, employee or agent of the person requested to recover, tow or remove the vehicle. No such instruction shall be considered to have been given by the mere posting of the notice as

required by the preceding parts of this section. No such instruction shall be considered to have been given by virtue of the mere terms of any contract or agreement between a person providing towing services and a property owner. No such instruction shall be considered to have been given where the instruction is general in nature and unrelated to specific, individual and identifiable vehicles, which are already parked without authorization.

- (C) The person recovering, towing or removing a vehicle at the request of a property owner or his authorized agent shall, within thirty (30) minutes of the completion of the vehicle recovery, tow or removal, notify the City of Miami Gardens Police Department of the nature of the service rendered, the storage site of the vehicle, the time the service was rendered, and the make, model, color, vehicle identification number and license plate number of the vehicle.
- (D) Persons who provide services pursuant to this section shall not recover, tow or remove a vehicle or provide storage in connection therewith if the vehicle owner or other person legally authorized to control the vehicle arrives at the scene prior to recovery, towing or removal, except where:
  - 1. The registered owner or other legally authorized person in control of the vehicle refuses or is unable to remove the vehicle; or
  - 2. A complete mechanical connection exists between the vehicle and the towing or removal apparatus and the registered owner or other person in control of the vehicle refuses to pay a reasonable service fee of not more than half of the posted rate for such towing services as required by this ordinance.
- (E) Except as otherwise provided for in Section 715.07 Florida Statutes, as amended, persons who provide services pursuant to this section shall not store or impound a towed vehicle at a distance which exceeds ten miles from the City limits, unless no towing business providing services under this section is located within ten-miles from the City Limit, in which case a towed or removed vehicle must be stored at a site within twenty (20) miles of the point of removal.
- (F) Persons who provide services pursuant to this section shall maintain one (1) or more storage sites, each of which shall be open for the purpose of retrieval of vehicles by owners or owners' authorized agents on any day that the person providing the service is open for towing purposes, from at least 8:00 a.m. to 6:00 p.m., Monday through Friday, and, when closed, shall have posted prominently on the exterior of the place of business a notice indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open a site

to retrieve a vehicle, the operator of the site shall return to the site within one (1) hour. Persons who provide services pursuant to this section shall release the vehicle to the owner or authorized agent within one-half (1/2) hour after request is made in person.

**SECTION 8. Non Consent Towing From Private Property. Prerequisites; Exceptions; Prohibitions**

- (A) It shall be unlawful for any person to tow or cause to be towed any vehicle parked on private real property unless the provisions of Section 715.07, Florida Statutes, have been complied with, together with the following requirements:
1. The owner, operator, or agent must obtain the appropriate towing permit from the City of Miami Gardens.
  2. The owners of the real property and the towing service shall have executed, at least 24 hours prior to the towing or removal of any vehicle, a written agreement for non-consent/trespass towing, which agreement shall contain the following provisions:
    - (a) The duration of the agreement.
    - (b) The time of day that such towing or removal is authorized.
    - (c) The days of the week that such towing or removal is authorized.
    - (d) The fees to be paid for the towing or the removal.
    - (e) The signatures of both the property owner, or the authorized representative, and the owner, or authorized representative, of the towing service, certifying that each has read and is in compliance with all the provisions of Section 715.07, Florida Statutes.
  3. The agreement may not be amended or modified in any manner, which provides for terms or activities, which violate the provisions of this ordinance or Florida Statute 715.07.
  4. A copy of the completed agreement shall be filed with the City of Miami Gardens Code Enforcement Department.

5. Where the private real property is provided for residential parking other than for a single-family residence, the agreement shall not authorize the towing service to tow away or remove any vehicle without a verified request to remove the specific vehicle by the property owner or an authorized representative. A property owner representative may include a resident manager, a property manager or other agent who has the legal authority to bind the owner, but may not be an officer, employee or agent of a towing service.
- (B) A property owner or his or her authorized representative may cause a vehicle parked without authorization upon the property owner's property, to be recovered, towed or removed from such property by a person licensed pursuant to this article, and shall not incur liability for the costs of recovery, towing or removal or storage associated therewith, under the following circumstances:
1. The towing of vehicles from property appurtenant to and obviously a part of a single-family residence; or
  2. In the case of any other property, when notice is prominently posted on the property in compliance with F.S. § 715.07, or has been personally given to the owner or driver of the vehicle that the area in which such vehicle is parked is reserved or is otherwise unavailable for unauthorized vehicles, and that the unauthorized vehicle will be removed at the owner's or operator's expense; or
  3. When the vehicle has been parked without authorization on the property for more than forty-eight (48) hours; or
  4. In the case of any other unauthorized parking when notice is prominently posted on the property as provided herein; or
  5. When the vehicle has been parked on the property for the principal purpose of displaying such vehicle for sale.
  6. When the property is obviously not intended to be used for parking vehicles.
- (C) The twenty-four-hour notice requirement of this section shall not apply where the tow is of an emergency nature and the owner has notified the Police Department prior to removing the vehicle. "Emergency" in this section shall only include circumstances where the usual operation of a business is impeded by the blocking of entrances, exits, or access to operational equipment, but specifically shall not include tows for the purpose of clearing parking areas.

- (D) When any property owner or his or her authorized representative causes a vehicle to be recovered, towed, removed from his or her property and stored, he or she shall immediately upon request and without demanding compensation inform the vehicle owner or other authorized person in control of the vehicle of the name and address of the person that has recovered, towed or removed the vehicle.
- (E) No property owner or authorized representative shall request the recovery, tow, removal or storage of a vehicle pursuant to this section until he or she has first ascertained from the person providing the service the current towing license number of that person.
- (F) Nothing in this section shall permit any property owner or authorized representative to request the recovery, tow or the removal of law enforcement, fire fighting, rescue squad, ambulance, code enforcement, or other emergency and/or City vehicles marked as such.
- (G) When any person causes a vehicle to be removed from property, he or she shall, upon request, immediately and without demanding compensation, inform the owner or lessor of such vehicle of the name and location of the business enterprise that has removed it. If the area from which the vehicle has been removed is unattended, the person causing the vehicle to be removed shall have prominent notice in such area of the name and location of the business enterprise that has removed the vehicle.

**SECTION 9. Requirements for immobilizing vehicles without prior consent of vehicle owner or duly authorized driver of vehicle.**

It is unlawful for a person providing immobilization services to immobilize a vehicle owned by another person that is parked on private property without permission or authority of the owner or duly authorized driver of that vehicle, unless the following requirements are satisfied:

- (A) The vehicle is unlawfully parked and notice shall be prominently posted on the property on which the vehicle is immobilized in accordance with the requirements set forth in herein. The text of the notice shall clearly display, in light reflective letters on a contrasting background, the following information:
  - 1. In letters at least two (2) inches high that unauthorized vehicles will be immobilized or towed away and the owner's expense;

2. In not less than four (4) inches high the words immobilization/tow away zone;
3. In letters at least two (2) inches high the days of the week and hours of the day during which vehicles will be booted;
4. In letters at least one (1) inch high the fee to un-boot the vehicle;
5. In letters at least one (1) inch high the name and address of the person performing the booting service;
6. In letters at least two (2) inches high the telephone number to call and the on-site location (if applicable) where a person can go to request the un-booting of the vehicle;
7. In letters at least three-fourths of an inch high, CITY OF MIAMI GARDENS COMPLAINT NUMBER: (insert current telephone number).
8. The notices shall read substantially as follows (with the designated information to be inserted at the indicated spaces): (insert international symbol)

ALERT! IMMOBILIZATION/TOW-AWAY ZONE ENTERING PRIVATE PROPERTY PARKING PERMITTED FOR (insert name of property owner) CUSTOMERS ONLY. IF YOU PARK YOUR VEHICLE AND LEAVE THE PREMISES, YOUR VEHICLE WILL BE IMMEDIATELY IMMOBILIZED SUBJECT TO A (insert fee) FEE TO RELEASE VEHICLE OR TOWED AT YOUR EXPENSE. IMMOBILIZATION PERFORMED BY: (insert name, address and telephone number to call to request removal of the immobilization device.

9. The sign structure containing the required notices must be permanently installed with the words "Alert. Immobilization/Tow-Away Zone." The sign shall meet the physical requirements contained in this ordinance.
- (B) The vehicle is not occupied by a living natural person or animal;
- (C) The vehicle may not be a police, fire fighting, rescue squad, ambulance, City or State vehicle, diplomat or other emergency vehicle marked as such;

- (D) The persons providing the immobilization service shall comply with Section 7(B) of this ordinance and have in their possession a standard manifest trip sheet;
- (E) Immobilization shall be accomplished by placing a steel boot on the front wheel of the driver's side of the motor vehicle. The steel boot may be placed on any other wheel if placement on the front wheel on the driver side is not feasible;
- (F) Immediately after a vehicle is booted, the person booting such vehicle, the owner of the property where such vehicle was booted, or an employee or agent of such person or owner, shall affix at the rearmost portion of the window adjacent to the driver's seat of such vehicle, a sticker with a completely removable adhesive, measuring eight and one-half by eleven inches containing a warning that any attempt to move the vehicle may result in damage to the vehicle, and stating the name and business address of the person who booted such vehicle as well as a business telephone number which will facilitate the dispatch of personnel responsible for removing the boot;
- (G) No release or waiver of any kind purporting to limit or avoid liability for damages to a vehicle that has been booted shall be valid. In addition, any person who booted a vehicle, or other person authorized to accept payment of any charges for such booting, shall provide a signed receipt to the individual paying the booting charges at the time such charges are paid. Such receipt shall state the name, business address, and business telephone number of the person who has booted such vehicle and such receipt shall include a telephone number of the office within the City of Miami Gardens responsible for receiving complaints with respect to booting;
- (H) No charge shall be imposed for the booting of a vehicle unless and until the requirements of this section have been met, and any such unlawful charge shall be reimbursed by any person found to have violated this section;
- (I) Any person who had booted a vehicle shall release such vehicle as soon as practical, but not to exceed thirty (30) minutes of receiving a request for such vehicle's release; provided however, that payment of any charge for booting is made at or prior to the time of such vehicle's release. The owner or person in control of a vehicle which has been booted shall be permitted to pay any charge for booting at the location where such vehicle was booted and the person receiving payment for booting services shall accept payment for charges from the owner or duly authorized representative as provided or herein;



- (J) A person may not charge more than the maximum fee established as provided for herein;
- (K) The rebate or repayment of money or any other valuable consideration directly or indirectly from the individual or firm booting vehicles to the owners or operators of the premises from which the vehicles are immobilized, for the privilege of immobilizing those vehicles, is prohibited;
- (L) The employees or agents of the booting business shall wear identification tags stating the full name of the booting business and the name of the employee or agent; no identification worn by the booting business' employees or agents shall use the words: "Enforcement," "Department," or "Police." Said identification tags shall be prominently displayed on the front left side of the employee or agent's shirt. All booting business vehicles shall display the company name (or name of joint venture, or individual owner or other entity ownership) on the driver and passenger side of the vehicle in letters at least three (3) inches high. The company's address (or address of joint venture, or individual owner or other entity ownership) and telephone number shall be displayed on the driver and passenger side of the vehicle in letters at least one (1) inch high. No booting business shall use the words "Enforcement," "Department," or "Police," in its advertising, signs, stickers or identifications;
- (M) Each person who performs immobilization must enter into a written contract with every owner of private property that authorizes the person to immobilize vehicles on their property. Each contract that is in effect or that was terminated within the previous twelve (12) months must be kept on file. Any agents of the City or the owner of the vehicle that was immobilized may inspect and copy such contract during business hours;
- (N) Any person who improperly causes a vehicle to be immobilized shall be liable to the vehicle owner or his authorized representative for the cost of the services provided, any damages results from the immobilization, and attorney's fees;
- (O) The business providing the booting service shall first obtain and maintain a current and valid license/permit from the Miami-Dade County Consumer Services Department as well as the required towing permit issued by the City of Miami Gardens Code Enforcement Department (reference in the relevant permit issuance sections to towing shall also mean "immobilization" or "booting" for the purposes of permit issuance);
- (P) Persons who provide services pursuant to this section shall not use profane language, physical force or violence or threats of physical force or violence in dealing with the individuals responsible for administering this

ordinance or individuals who have had or are about to have their vehicles booted or immobilized;

- (Q) Prior to immobilization, the property owner or immobilization contractor's representative shall attempt to notify the owner, operator, or person legally in control of the vehicle to retrieve it promptly or the vehicle will be immobilized;
- (R) Persons who provide services pursuant to this section shall maintain a place of business. The place of business shall have a sign that clearly and conspicuously identifies the business to the public; and office space that has at least one person on duty from 8:00 a.m. until 6:00 p.m., Monday through Friday, to answer telephone calls and to be open to serve the public and to respond to records requests. However, the office may be closed to observe all holidays observed by the City of Miami Gardens. The place of business shall maintain a telephone communication system to answer telephone calls from the public twenty-four (24) hours a day. The permit issued by the Director shall be prominently displayed to the public at said business location;
- (S) An immobilized vehicle shall not remain immobilized on private property for more than 24 hours. After such period of time has expired, the vehicle shall be released from the steel boot and may be towed or removed pursuant to this ordinance, and no fee shall be assessed for release of the immobilization device.
- (T) The property owner or immobilization contractor shall keep an immobilization log with information including but not limited to: date and time that vehicles were observed illegally parked, the date and time of immobilization, the location/address of the real property where the immobilization took place, make, model, color and license tag number of the vehicle immobilized. In addition, the immobilization contractor shall include in the log the following release information: verification of vehicle ownership, the name of the person removing steel boot and the name of person requesting tow service, if applicable. All files, records, and logs shall be available for inspection and checking on the subject premises during normal working hours by the Director.

#### **SECTION 10. Towing of Vehicles From City Property.**

No vehicle shall be towed or removed from property belonging to the City except with the authorization or prior agreement of the city manager and/or his designee. Further, if the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to the removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus

and that person shall be allowed to remove the vehicle without interference upon payment of a reasonable service fee of not more than half the posted rate for such towing service for which a receipt shall be given, unless that person refuses to remove the vehicle otherwise unlawfully parked.

#### **SECTION 11. Return of Vehicle to Owner Prior to Removal**

Persons who provide services pursuant to this section shall not recover, tow or remove a vehicle or provide storage in connection therewith whether on a public street, public property, or private property if the vehicle owner or other person legally authorized to control the vehicle arrives at the scene prior to recovery, towing or removal, except where:

1. The registered owner or other legally authorized person in control of the vehicle refuses or is unable to remove the vehicle; or
2. A complete mechanical connection exists between the vehicle and the towing or removal apparatus and the registered owner or other person in control of the vehicle refuses to pay a reasonable service fee of not more than half of the posted rate for such towing services as required by this ordinance.

#### **SECTION 12. Posting of Towing Signs Required.**

- (A.) It shall be unlawful for a person, firm, or corporation hired by the owner of private property within the City to do any trespass towing without having first obtained approval of the Code Enforcement and Licensing Department of the signs posted on the property. In addition to the requirements of Section 715.07, the Florida Statutes, the wording on the sign shall indicate if towing is conducted other than normal business hours by the posting of a sign indicating "24 hours per day."
- (B.) All parking regulation announcement signs shall be brought into compliance with this section within 90 days of the effective date of this ordinance.

#### **SECTION 13. Notification That Vehicle Has Been Towed.**

The owner or operator of any towing service company shall promptly notify the City of Miami Gardens Police Department of the towing of vehicle and its location when it has removed or towed a vehicle located on private property without the consent of the owner of the vehicle.

**SECTION 14. Receipt from Towing Service to be Furnished to Owner When Vehicle Claimed.**

When a towed vehicle is claimed, the towing service shall furnish the owner or other legally authorized person with a receipt, which shall include the name of the person who authorized the towing. The owner or operator of the towing service shall permit the owner or other legally authorized person to pay towing charges by cash, credit card or check. The receipt shall also include the following language:

"Notice: Towing from private property is regulated by the provisions of Section 715.07 Florida Statutes and City of Miami Gardens Code of Ordinances."

**SECTION 15. General Prohibitions.**

It shall be unlawful for any person to recover, tow or remove a vehicle or provide storage in connection therewith or to cause or permit any other person for compensation to recover, tow or remove a vehicle or provide storage in connection therewith as follows:

- A. To charge a release fee for towed vehicles that are released from storage facilities during normal business hours. "Normal business hours" shall be from 7:00 a.m. to 11:00 p.m.;
- B. For any person other than the real property owner or an authorized representative of the owner to move, or deface any tow-away sign;
- C. To tow or remove a vehicle where there is a natural person occupying the vehicle;
- D. To recover, tow, remove or store a vehicle unless the service provider shall maintain trip record(s) relating to the previous calendar year. The trip record(s) must indicate at a minimum:
  - 1. The name of the business enterprise;
  - 2. The date and time of the day in hours and minutes when a specific vehicle was recovered, towed, removed and stored;
  - 3. The make, model, color, vehicle identification number, and license plate number of the specific vehicle(s);
  - 4. The precise address or description of the location from which the specific vehicle was removed;

5. The full name of the property owner or designated representative who expressly instructed the removal of the specific vehicle;
  6. The name of the law enforcement department to whom notification of the towing or removal of the vehicle was given.
- E. To recover, tow, remove or store a vehicle unless the vehicle shall be towed directly to the business enterprise's storage site and the vehicle shall not be kept in any temporary holding area;
- F. To recover, tow, remove or store a vehicle unless the business enterprise shall assist the registered owner in obtaining any identification and documentation of ownership as well as any personal effects, medical materials and perishable goods contained within the stored vehicle that the registered owner has requested;
- G. To release any vehicle that has been marked "hold" by the Police Department without the express permission of the Department.

**SECTION 16. Maximum immobilization, non-consent towing and storage rates for providing immobilization or tow services at the request of property owners or the City.**

- (A) The City Council shall by resolution, establish maximum rates for providing immobilization, recovery, non-consent towing, removal and storage services in accordance with this ordinance, without the prior consent of the vehicle owner or other authorized person in control of the vehicle. The rates established shall be uniform throughout the City of Miami Gardens and supersede the rates established by Miami-Dade County, pursuant to Sections 125.0103 and 166.043, Florida Statutes. From time to time, the maximum rates established by the City Council may be altered, revised, increased or decreased.
- (B) Persons who provide non-consent towing services within the City limits shall not charge in excess of the maximum allowable rates established by the City Council. No person providing services pursuant to this section shall charge any type of fee other than the fees for which the City Council has established specific rates.
- (C) In addition to the maximum rates that may be charged by persons providing services pursuant to this section, the City shall charge an administrative fee of \$15 for each vehicle that is recovered, towed, removed, or stored at the request of the City. Any administrative fee charged and collected on behalf of the City by a person providing services

at the City's request is hereby ratified and confirmed. Such fee shall be remitted to the City on a monthly basis.

**SECTION 17. Enforcement Procedure; Remedies; Attorney's Fees; Costs; and Penalties.**

- (A) In addition to those penalties imposed by Section 715.07, Florida Statutes, violation of any provision of this ordinance including any of the requirements of Section 715.07 shall be subject to the following civil and criminal penalties:
1. *Criminal penalties:* If any person fails or refuses to obey or comply with or violates any of the provisions of this ordinance, such person, upon conviction of such offense, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed two hundred and fifty (\$250.00) or by imprisonment not to exceed sixty (60) days in the County Jail, or both in the discretion of the Court. Each day of continued violation shall be considered as a separate offense.
  2. *Civil Penalties;* any person who violates any of the provisions of this ordinance shall, be subject to a civil penalty and a fine of not less than \$500.00 per violation. Each violation shall be considered a separate offense. The City shall be permitted to enforce this Ordinance through any legally available means including the code enforcement process, or through a civil action. The City shall be permitted to recover any attorney's fees and costs incurred in any action brought in accordance with this Ordinance, up through an appeal.
- (B) The Code Enforcement Department is authorized to enforce the provisions of this ordinance by administrative fines in accordance with the provisions of the City Code Enforcement Ordinance for each violation. Each day of a continuing violation shall be deemed a separate violation.
- (C) Any person who violates this ordinance shall be liable to the owner or lessee of the vehicle for all costs of recovery of any towed or removed vehicle for damages resulting directly or indirectly from the removal, transportation, or storage of the vehicle.
- (D) This ordinance shall be enforced by personnel authorized by the City Manager or his/her including the City of Miami Gardens Police Department and The City of Miami Gardens Code Enforcement Department.
- (E) All the judicial and administrative remedies in this ordinance are independent and cumulative.

SECTION 3. CONFLICT: All ordinances or Code provisions in conflict herewith are hereby repealed.

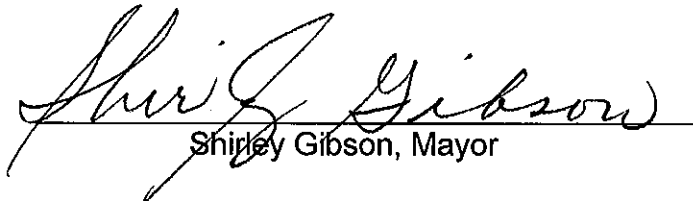
SECTION 4. SEVERABILITY: If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

SECTION 5. INCLUSION IN CODE: It is the intention of the City Council of the City of Miami Gardens that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Miami Gardens and that the sections of this Ordinance may be renumbered or relettered and the word "Ordinance" may be changed to "Chapter," "Section," "Article" or such other appropriate word or phrase, the use of which shall accomplish the intentions herein expressed; provided, however, that Section 1 hereof or the provisions contemplated thereby shall not be codified.

SECTION 6. EFFECTIVE DATE: This Ordinance shall become effective immediately upon its final passage.

PASSED ON FIRST READING ON THE 13<sup>TH</sup> DAY OF FEBRUARY 2008.

ADOPTED AND PASSED BY THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS AT ITS REGULAR MEETING HELD ON THE 27<sup>th</sup> DAY OF FEBRUARY, 2008.

  
Shirley Gibson, Mayor

ATTEST:

  
RONETTA TAYLOR, CMC, CITY CLERK

PREPARED BY: SONJA KNIGHTON DICKENS, ESQ.  
City Attorney

SPONSORED BY: Danny Crew, City Manager

MOVED BY: Councilman Braynon  
SECONDED BY: Councilman Campbell

**VOTE: 7-0**

Mayor Shirley Gibson	<u>  x  </u> (Yes)	<u>    </u> (No)
Vice Mayor Barbara Watson	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Melvin L. Bratton	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Oscar Braynon, II	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman Aaron Campbell	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilwoman Sharon Pritchett	<u>  x  </u> (Yes)	<u>    </u> (No)
Councilman André Williams	<u>  x  </u> (Yes)	<u>    </u> (No)

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# City of Miami Gardens

1515-200 NW 167<sup>th</sup> Street  
Miami Gardens, Florida 33169



Mayor Shirley Gibson  
Vice Mayor Barbara Watson  
Councilman Melvin L. Bratton  
Councilman Oscar Braynon II  
Councilman Aaron Campbell Jr.  
Councilwoman Sharon Pritchett  
Councilman André Williams

## Agenda Cover Page

Date: **February 27th, 2008**

Fiscal Impact: No ☐ Yes ☒

(If yes, explain in Staff Summary)

Funding Source: **General Fund**

Contract/P.O. Requirement: Yes ☐ No ☒

Sponsor Name/Department: **Dr. Danny O. Crew, City Manger**

Public hearing ☐

Ordinance ☒

1st Reading

Advertising requirement:

Quasi-Judicial ☐

Resolution ☐

2nd Reading ☒

Yes x No ☐

RFP/RFQ/Bid # **N/A**

## Title

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIAMI GARDENS ENACTING PROVISIONS FOR OWNERS AND OPERATORS OF TOWING COMPANIES DOING BUSINESS IN THE CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR TOWING PERMITS; PROVIDING FOR TOWING RULES AND REGULATIONS; PROVIDING FOR PENALTIES; PROVIDING FOR ADOPTION OF REPRESENTATIONS; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR INCLUSION IN CODE; PROVIDING AN EFFECTIVE DATE.

## **Staff Summary**

Tow company operators'/service providers' are engaged in the towing immobilization of vehicles within the City either as the result of a consent or non-consent tow. The towing practices and maximum towing fees have heretofore been exclusively regulated by Miami-Dade County. The City is now in a position where it needs to contract with towing companies for the utilization of their services during the course of delivering police services and parking enforcement actions relating to non-consent tows.

In order to control the maximum allowable towing rates locally we must now assume regulation of these non-consent towing operators'/service providers and impose rules and regulations for towing within the City of Miami Gardens.

## **Recommendation**

It is recommended that the City Council adopt this ordinance, thereby requiring that all tow company operators'/service providers' be required to obtain a towing permit and comply with the new City towing regulations.

Attachment

**I-2) ORDINANCE**  
**2<sup>nd</sup> READING**  
Providing for Towing Rules  
And Regulations